

804 KAR 1:030. Prohibited statements.

RELATES TO: KRS 244.130

STATUTORY AUTHORITY: KRS Chapter 13A

NECESSITY, FUNCTION, AND CONFORMITY: KRS 244.130 requires the Alcoholic Beverage Control Board to prescribe administrative regulations dealing with advertising of alcoholic beverages. This administrative regulation is to prevent false or misleading advertising of distilled spirits and wine.

Section 1. Prohibited Statements; Restrictions. An advertisement of distilled spirits or wine shall not contain:

- (1) Any statement that is false or misleading in any material particular.
- (2) Any statement that is disparaging of a competitor's products.
- (3) Any statement, design, device, or representation which is obscene or indecent.
- (4) Any statement concerning or illustrations of family scenes pertaining to the home.
- (5) Any statement, design, device, or representation of or relating to analysis, standards or tests, irrespective of falsity, which the Alcoholic Beverage Control Board finds to be likely to mislead the consumer.
- (6) Any statement, design, device, or representation of or relating to any guaranty, irrespective of falsity, which the Alcoholic Beverage Control Board finds to be likely to mislead the consumer. No guaranty cards or labels shall be used that would indicate the consumer would be entitled to a refund of the purchase price if dissatisfied with the distilled spirits or wine.
- (7) Any statement that the distilled spirits or wine are produced, distilled, blended, made, bottled, or sold under or in accordance with any municipal, state or federal authorization, law or regulation; and if a municipal, state or federal permit number is stated, such permit number shall not be accompanied by any additional statement relating thereto.
- (8) The words "bond," "bonded," "bottled in bond," "aged in bond," or phrases containing these or synonymous terms, unless such words or phrases appear, pursuant to federal regulations upon the labels of the distilled spirits advertised, and are stated in the advertisement in the manner and form in which they are required to appear upon the label.
- (9) Any statement of bonded wine cellar and bonded winery numbers unless stated in direct conjunction with the name and address of the person operating such winery or storeroom. Statement of bonded wine cellar and bonded winery numbers may be made in the following form: "Bonded Wine cellar No. _____," "Bonded Winery No. _____," "B.W.C. No. _____," "B.W. No. _____." No additional reference thereto shall be made, nor shall any use be made of such statement that may convey the impression that the wine has been made or matured under government supervision or in accordance with government specifications or standards.
- (10) The word "pure" except as part of the bona fide name of a licensee or a retailer for whom the distilled spirits are bottled.
- (11) The terms "double distilled," "triple distilled," or any similar term.
- (12) Statements inconsistent with labeling. The advertisement shall not contain any statement concerning a brand or lot of distilled spirits or wine that is inconsistent with any statement on the labeling thereof.
- (13) Statements of age. The advertisement shall not contain any statement, design or device directly or by implication concerning age or maturity of any brand or lot of distilled spirits unless a statement of age appears on the label of the advertised product. When any such statement, design, or device concerning age or maturity is contained in any advertisement, it shall include (in direct conjunction therewith and with substantially equal conspicuousness) all parts of the statement, if any, concerning age and percentages required to be made on the label under the provisions of federal

regulations. An advertisement for any whiskey or brandy (except immature brandies) which is not required to bear a statement of age on the label or an advertisement for any rum which has been aged for not less than four (4) years may, however, contain general inconspicuous age, maturity or other similar representations even though the optional age statement does not appear on the label of the advertised product and in the advertisement itself.

(14) Curative and therapeutic effects. The advertisement shall not contain any statement, design, or device representing that the use of any distilled spirits or wine has curative or therapeutic effects, if such statement is untrue in any particular, or tends to create a misleading impression.

(15) Place of origin. The advertisement shall not represent that the distilled spirits or wine were manufactured in or imported from a place or country other than that of their actual origin, or were produced or processed by one who was not in fact the actual producer or processor.

(16) Confusion of brands. Two (2) or more different brands or lots of distilled spirits or wine shall not be advertised in one (1) advertisement (or in two (2) or more advertisements in one (1) issue of a periodical or newspaper, or in one (1) piece of other written, printed, or graphic matter) if the advertisement tends to create the impression that representations made as to one (1) brand or lot apply to the other or others, and if as to such latter the representations contravene any provision of these administrative regulations or are in any respect untrue.

(17) Flags, seals, coats of arms, crests, and other insignia. No advertisement shall contain any statement, design, device, or pictorial representation of or relating to, or capable of being construed as relating to the armed forces; nor shall any advertisement contain any statement, device, design, or pictorial representation of or concerning any flag, seal, coat of arms, crest, or other insignia, likely to mislead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of the government, organization, family, or individual with whom such flag, seal, coat of arms, crest, or insignia is associated. (ABC 1:31; 1 Ky.R. 51; eff. 10-2-74; Am. 8 Ky.R. 198; eff. 12-2-81.)